



General Assembly

January Session, 2005

Amendment

LCO No. 6630

SB0012406630SR0

Offered by:

SEN. FREEDMAN, 26th Dist.

REP. BOUCHER, 143rd Dist.

To: Subst. Senate Bill No. **124**

File No. 403

Cal. No. 326

"AN ACT CONCERNING THE MEDICAL USE OF MARIJUANA."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2005*) As used in sections 1 to
4 9, inclusive, of this act, unless the context otherwise requires:

5 (1) "Debilitating medical condition" means (A) cancer, glaucoma,
6 positive status for human immunodeficiency virus or acquired
7 immune deficiency syndrome, or the treatment of any such conditions,
8 including, but not limited to, chemotherapy, (B) a chronic or
9 debilitating disease or medical condition, or the treatment thereof, that
10 produces one or more of the following: (i) Cachexia or wasting
11 syndrome; (ii) severe pain; (iii) severe nausea; (iv) seizures; or (v)
12 severe and persistent muscle spasms, or (C) any other medical
13 condition approved by the Department of Public Health, pursuant to
14 regulations that the Commissioner of Public Health may adopt, in
15 accordance with chapter 54 of the general statutes, in response to a

16 request from a physician or potentially qualifying patient;

17 (2) "Marijuana" has the same meaning as provided in section 21a-
18 240 of the general statutes;

19 (3) "Medical use" means the acquisition, possession, use or
20 transportation of marijuana or paraphernalia relating to marijuana by
21 a qualifying patient to alleviate the symptoms or effects of such
22 qualifying patient's symptoms, but does not include any use of crude
23 marijuana by such qualifying patient. For the purposes of this
24 subdivision: (A) "Use of crude marijuana" means the acquisition,
25 possession, cultivation, use, distribution, consumption or
26 transportation of crude marijuana or paraphernalia relating to crude
27 marijuana; (B) "crude marijuana" means the leaves, stems and
28 flowering tops of the cannabis plant, or any derivative thereof, that
29 have not been tested and approved by the federal Food and Drug
30 Administration for medical purposes; and (C) "medical purposes"
31 means the diagnosis, prevention, treatment or mitigation of any
32 disease or impairment of the health of human beings;

33 (4) "Physician" means a person who is licensed under the provisions
34 of chapter 370 of the general statutes and authorized by subsection (a)
35 of section 21a-246 of the general statutes, as amended by this act, to
36 possess and supply marijuana for medical use, but does not include a
37 physician assistant, as defined in section 20-12a of the general statutes;

38 (5) "Qualifying patient" means a person who is eighteen years of age
39 or older and has been diagnosed by a physician as having a
40 debilitating medical condition; and

41 (6) "Written certification" means a statement signed by the
42 qualifying patient's physician stating that, in the physician's
43 professional opinion, the qualifying patient has a debilitating medical
44 condition and the potential benefits of the medical use of marijuana
45 would likely outweigh the health risks of such use to the qualifying
46 patient.

47 Sec. 2. (NEW) (*Effective October 1, 2005*) (a) A qualifying patient shall
48 not be subject to arrest or prosecution, penalized in any manner,
49 including, but not limited to, being subject to any civil penalty, or
50 denied any right or privilege, including, but not limited to, being
51 subject to any disciplinary action by a professional licensing board, for
52 the medical use of marijuana if:

53 (1) The qualifying patient has been diagnosed by a physician as
54 having a debilitating medical condition;

55 (2) The qualifying patient's physician has issued a written
56 certification to the qualifying patient for the medical use of marijuana
57 after the physician has prescribed, or determined it is not in the best
58 interest of the patient to prescribe, prescription drugs to address the
59 symptoms for which the certification is being issued; and

60 (3) The amount of marijuana possessed by the qualifying patient for
61 medical use does not exceed an amount specified in such written
62 certification or otherwise prescribed by a physician.

63 (b) Subsection (a) of this section does not apply to:

64 (1) Any medical use of marijuana that endangers the health or well-
65 being of another person; and

66 (2) The medical use of marijuana (A) in a motor bus or a school bus,
67 as defined respectively in section 14-1 of the general statutes, or in any
68 moving vehicle, (B) in the workplace, (C) on any school grounds, (D) at
69 any public park, public beach, public recreation center or youth center
70 or any other place open to the public, or (E) in the presence of a person
71 under the age of eighteen. For the purposes of this subdivision,
72 "presence" means within the direct line of sight of the medical use of
73 marijuana or exposure to second-hand marijuana smoke, or both.

74 (c) Any written certification for the medical use of marijuana issued
75 by a physician under this section shall be valid for a period not to
76 exceed one year from the date such written certification is signed by

77 the physician.

78 Sec. 3. (NEW) (*Effective October 1, 2005*) (a) Each qualifying patient
79 who is issued a written certification for the medical use of marijuana
80 shall register with the Department of Consumer Protection. Such
81 registration shall be effective until the expiration of the written
82 certification issued by the physician. The qualifying patient shall
83 provide sufficient identifying information, as determined by the
84 department, to establish the personal identity of the qualifying patient.
85 The qualifying patient shall report any change in such information to
86 the department not later than five business days after such change. The
87 department shall issue a registration certificate to the qualifying
88 patient and may charge a reasonable fee, not to exceed twenty-five
89 dollars, for a registration under this subsection.

90 (b) Upon the request of a law enforcement agency, the Department
91 of Consumer Protection shall verify whether a qualifying patient has
92 registered with the department in accordance with subsection (a) of
93 this section and may provide reasonable access to registry information
94 obtained under this section for law enforcement purposes. Except as
95 provided in this subsection, information obtained under this section
96 shall be confidential and shall not be subject to disclosure under the
97 Freedom of Information Act, as defined in section 1-200 of the general
98 statutes.

99 Sec. 4. (NEW) (*Effective October 1, 2005*) The Commissioner of
100 Consumer Protection may adopt regulations, in accordance with
101 chapter 54 of the general statutes, to establish (1) a required form for
102 written certifications for the medical use of marijuana issued by
103 physicians under section 2 of this act, and (2) requirements for
104 registrations under section 3 of this act.

105 Sec. 5. (NEW) (*Effective October 1, 2005*) Nothing in sections 1 to 9,
106 inclusive, of this act shall be construed to require health insurance
107 coverage for the medical use of marijuana.

108 Sec. 6. (NEW) (*Effective October 1, 2005*) (a) A qualifying patient may

109 assert the medical use of marijuana as an affirmative defense to any
110 prosecution involving marijuana, or paraphernalia relating to
111 marijuana, under chapter 420b of the general statutes, provided such
112 qualifying patient has strictly complied with the requirements of
113 sections 1 to 9, inclusive, of this act.

114 (b) No person shall be subject to arrest or prosecution solely for
115 being in the presence or vicinity of the medical use of marijuana as
116 permitted under sections 1 to 9, inclusive, of this act.

117 Sec. 7. (NEW) (*Effective October 1, 2005*) A physician shall not be
118 subject to arrest or prosecution, penalized in any manner, including,
119 but not limited to, being subject to any civil penalty, or denied any
120 right or privilege, including, but not limited to, being subject to any
121 disciplinary action by the Connecticut Medical Examining Board or
122 other professional licensing board, for providing a written certification
123 for the medical use of marijuana if:

124 (1) The physician has diagnosed the qualifying patient as having a
125 debilitating medical condition;

126 (2) The physician has explained the potential risks and benefits of
127 the medical use of marijuana to the qualifying patient and, if the
128 qualifying patient lacks legal capacity, to a parent, guardian or person
129 having legal custody of the qualifying patient; and

130 (3) The written certification issued by the physician is based upon
131 the physician's professional opinion after having completed a full
132 assessment of the qualifying patient's medical history and current
133 medical condition made in the course of a bona fide physician-patient
134 relationship.

135 Sec. 8. (NEW) (*Effective October 1, 2005*) Any marijuana,
136 paraphernalia relating to marijuana, or other property seized by law
137 enforcement officials from a qualifying patient in connection with a
138 claimed medical use of marijuana under sections 1 to 9, inclusive, of
139 this act shall be returned to the qualifying patient immediately upon

140 the determination by a court that the qualifying patient is entitled to
141 the medical use of marijuana under sections 1 to 9, inclusive, of this
142 act, as evidenced by a decision not to prosecute, a dismissal of charges
143 or an acquittal. This section does not apply to any qualifying patient
144 who fails to comply with the requirements for the medical use of
145 marijuana under sections 1 to 9, inclusive, of this act.

146 Sec. 9. (NEW) (*Effective October 1, 2005*) (a) Any person who makes a
147 fraudulent representation to a law enforcement official of any fact or
148 circumstance relating to the medical use of marijuana in order to avoid
149 arrest or prosecution under chapter 420b of the general statutes shall
150 be guilty of a class C misdemeanor.

151 (b) Any person who makes a fraudulent representation to a law
152 enforcement official of any fact or circumstance relating to the issuance
153 of a written certification for the medical use of marijuana by a
154 physician to which section 7 of this act does not apply shall be guilty of
155 a class A misdemeanor.

156 Sec. 10. Subsection (a) of section 21a-246 of the general statutes is
157 repealed and the following is substituted in lieu thereof (*Effective*
158 *October 1, 2005*):

159 (a) No person within this state shall manufacture, wholesale,
160 repackage, supply, compound, mix, cultivate or grow, or by other
161 process produce or prepare, controlled substances without first
162 obtaining a license to do so from the Commissioner of Consumer
163 Protection and no person within this state shall operate a laboratory
164 for the purpose of research or analysis using controlled substances
165 without first obtaining a license to do so from the Commissioner of
166 Consumer Protection, except that such activities by pharmacists or
167 pharmacies in the filling and dispensing of prescriptions, or activities
168 incident thereto, or the dispensing or administering of controlled
169 substances by dentists, podiatrists, physicians [,] or veterinarians, or
170 other persons acting under their supervision, in the treatment of
171 patients shall not be subject to the provisions of this section, and

172 provided laboratories for instruction in dentistry, medicine, nursing,
173 pharmacy, pharmacology and pharmacognosy in institutions duly
174 licensed for such purposes in this state shall not be subject to the
175 provisions of this section except with respect to narcotic drugs and
176 schedule I and II controlled substances. Upon application of any
177 physician licensed pursuant to chapter 370, the Commissioner of
178 Consumer Protection shall without unnecessary delay, license such
179 physician to possess and supply marijuana for [the treatment of
180 glaucoma or the side effects of chemotherapy] medical use pursuant to
181 sections 1 to 9, inclusive, of this act. No person [without] outside this
182 state shall sell or supply controlled substances within [the] this state
183 without first obtaining a license to do so from the Commissioner of
184 Consumer Protection, provided no such license shall be required of a
185 manufacturer whose principal place of business is located outside [the]
186 this state and who is registered with the federal Drug Enforcement
187 [Agency] Administration or other federal agency, and who files a copy
188 of such registration with the appropriate licensing authority under this
189 chapter.

190 Sec. 11. Section 21a-253 of the general statutes is repealed and the
191 following is substituted in lieu thereof (*Effective October 1, 2005*):

192 Any [person] qualifying patient, as defined in section 1 of this act,
193 may possess or have under [his] such qualifying patient's control a
194 quantity of marijuana less than or equal to that quantity supplied [to
195 him] pursuant to a prescription made in accordance with the
196 provisions of section 21a-249 by a physician licensed under the
197 provisions of chapter 370 and further authorized by subsection (a) of
198 section 21a-246, as amended by this act, by the Commissioner of
199 Consumer Protection to possess and supply marijuana for [the
200 treatment of glaucoma or the side effects of chemotherapy] medical
201 use pursuant to sections 1 to 9, inclusive, of this act. The provisions of
202 this section do not apply to the possession or control of marijuana of a
203 kind or in a quantity not permitted for medical use pursuant to
204 sections 1 to 9, inclusive, of this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	New section
Sec. 2	<i>October 1, 2005</i>	New section
Sec. 3	<i>October 1, 2005</i>	New section
Sec. 4	<i>October 1, 2005</i>	New section
Sec. 5	<i>October 1, 2005</i>	New section
Sec. 6	<i>October 1, 2005</i>	New section
Sec. 7	<i>October 1, 2005</i>	New section
Sec. 8	<i>October 1, 2005</i>	New section
Sec. 9	<i>October 1, 2005</i>	New section
Sec. 10	<i>October 1, 2005</i>	21a-246(a)
Sec. 11	<i>October 1, 2005</i>	21a-253